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IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

ONE HUNDRED AND NINTH LEGISLATIVE DAY
THURSDAY, APRIL 24, 2003

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 10 a.m.

Roll call showed all members present except Senators Marley and Noble, absent and formally excused by the Chair; and Senators Andreason, Burkett, Davis, Malepeai, Pearce, Sorensen, Stennett, and Sweet, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Pledge of Allegiance was led by Kathryn Neal, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senators Andreason, Malepeai, and Stennett were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of April 23, 2003, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

April 23, 2003

The JUDICIARY AND RULES Committee reports that **S 1181, S 1182, S 1183, S 1184, S 1185, and S 1186** have been correctly enrolled.

DARRINGTON, Chairman

The President Pro Tempore signed Enrolled **S 1181, S 1182, S 1183, S 1184, S 1185, and S 1186** and ordered them transmitted to the House for the signature of the Speaker.

April 23, 2003

The JUDICIARY AND RULES Committee reports that Enrolled **S 1180** was delivered to the Office of the Governor at 1:55 p.m., April 23, 2003.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

April 23, 2003

The RESOURCES AND ENVIRONMENT Committee reports out **HJM 12** with the recommendation that it do pass.

NOH, Chairman

HJM 12 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

April 23, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

S 1164, S 1175, S 1178

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

April 24, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Craig D. Harlen of Pocatello, Idaho, was appointed as a member of the Idaho Board

of Environmental Quality to serve a term commencing April 11, 2003, and expiring July 1, 2007.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Health and Welfare Committee.

April 24, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Stephen Weeg of Pocatello, Idaho, was appointed as a member of the Idaho Board of Health and Welfare to serve a term commencing April 11, 2003, and expiring January 7, 2007.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Health and Welfare Committee.

April 24, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that LaMoyne Hyde of Idaho Falls, Idaho, was appointed as Director of the Idaho Department of Commerce to serve a term commencing April 24, 2003, and expiring at the pleasure of the Governor.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Commerce and Human Resources Committee.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

Senators Burkett, Davis, Pearce, Sorensen, and Sweet were recorded present at this order of business.

H 422, by Appropriations Committee, was read the second time at length and filed for third reading.

The President assumed the Chair.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

SR 106

BY STATE AFFAIRS COMMITTEE

A SENATE RESOLUTION

EXPRESSING CONGRATULATIONS AND APPRECIATION TO BUDDY GIL, HIS OWNERS DONNIE AND JUDY MCFADDEN, HIS TRAINER JEFF MULLINS AND HIS JOCKEY GARY STEVENS, FOR THE RECOGNITION THAT THEIR ACHIEVEMENTS IN HORSE RACING HAVE BROUGHT TO THE STATE OF IDAHO.

Be It Resolved by the Senate of the State of Idaho:

WHEREAS, the Senate recognizes the achievements of Idaho's Buddy Gil, the bay gelding that on April 5, 2003, took the Santa Anita Derby, earning himself a trip to the Kentucky Derby on May 3, 2003; and

WHEREAS, the Santa Anita Derby is the West Coast's most significant preparation for the Kentucky Derby, and Buddy Gil took the Derby by covering 1-1/8 miles in 1 minute, 49.36 seconds, defeating Indian Express by a head; and

WHEREAS, Buddy Gil's owners include Donnie and Judy McFadden of Hagerman, Idaho. Buddy Gil was foaled in Kentucky but learned to race at McFaddens' Billingsley Creek Ranch; and

WHEREAS, Buddy Gil was trained by Jeff Mullins, and was ridden under jockey Gary Stevens, both Stevens and Mullins having started their early careers at Les Bois Park in Boise, Idaho; and

WHEREAS, Buddy Gil beat considerable odds, has earned respect as a tough competitor with steel determination, and has a firm chance of wearing the garland of roses on May 3, 2003.

NOW, THEREFORE, BE IT RESOLVED by the members of the Senate, assembled in the First Regular Session of the Fifty-seventh Idaho Legislature, that the congratulations and appreciation of the state of Idaho are extended to Buddy Gil, his owners Donnie and Judy McFadden, his trainer Jeff Mullins and his jockey Gary Stevens, for the recognition that their achievements in horse racing have brought to the state of Idaho.

SJM 104
BY STATE AFFAIRS COMMITTEE
A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Idaho is among the forty-five states and the District of Columbia to impose a sales and use tax; and

WHEREAS, the United States Supreme Court in its decisions in *National Bellas Hess v. Department of Revenue of Illinois*, 386 U.S. 753 (1967) and *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992) denies to states the authority to require collection of sales and use taxes by out-of-state remote sellers (e.g. Internet and catalog sellers) who have no physical presence in the state due to the "undue burden" that results from the complexities associated with differing state and local sales tax laws; and

WHEREAS, the inability of states like Idaho to require certain direct marketers and other businesses selling to their residents to collect sales and use tax places many community businesses that support state and local government and local community activities at a substantial competitive disadvantage; and

WHEREAS, restrictions on collections of such taxes result in a loss of revenue equaling billions of dollars to the states and millions of dollars to the state of Idaho; and

WHEREAS, there is a clear need for simplification of state and local sales tax administration and greater uniformity among states in the administration of sales and use tax to avoid imposing an undue burden on interstate commerce; and

WHEREAS, more than thirty states are now involved in the Streamlined Sales Tax Project that has as its goal the development of a radically simplified sales tax administration system that will reduce the compliance burden for all types of retailers; and

WHEREAS, thirty-three states have joined together to adopt the Streamlined Sales and Use Tax Agreement which provides for member states to make substantive simplifications to their sales and use tax systems to remove or substantially reduce the burdens on interstate commerce addressed in the *Quill* and *National Bellas Hess* cases; and

WHEREAS, one of the goals of the Streamlined Sales Tax Project is to encourage the registration and collection of sales and use taxes by remote sellers who are not now collecting such taxes on otherwise taxable sales to customers located in states where the remote sellers do not have physical presence sufficient to subject them to the states' jurisdiction to require such collection; and

WHEREAS, the Streamlined Sales and Use Tax Agreement provides that when ten states representing twenty percent of the population of all states imposing sales and use taxes have enacted the required simplification provisions addressed in the agreement and been admitted to membership in the agreement, the agreement shall take effect.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully urge the Congress of the United States to authorize those states which have become members of the Streamlined Sales and Use Tax Agreement, by conforming their sales and use tax laws to the requirements of the agreement, to require sales and use tax collection responsibility on the part of remote sellers who have no physical presence in the state.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

SR 106 and **SJM 104** were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,
House Petitions, Resolutions, and Memorials**

S 1193
BY STATE AFFAIRS COMMITTEE
AN ACT

RELATING TO SALES AND USE TAXES; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 43, TITLE 63, IDAHO CODE, TO AUTHORIZE THE SIMPLIFIED SALES AND USE TAX ADMINISTRATION ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE A STATEMENT OF FINDINGS AND INTENT, TO SET OUT DUTIES OF THE STATE TAX COMMISSION, TO AUTHORIZE THE COMMISSION TO ENTER THE STREAMLINED SALES TAX AGREEMENT, TO PROVIDE THAT THE AGREEMENT DOES NOT PREEMPT STATE LAW, TO ESTABLISH THE MINIMUM TERMS AND CONDITIONS FOR ENTERING THE AGREEMENT, TO PROVIDE THAT THE AGREEMENT IS AN ACCORD AMONG COOPERATING SOVEREIGNS, TO LIMIT THE RIGHT TO ACTION UNDER THE AGREEMENT, TO PROVIDE FOR CERTIFIED SERVICE PROVIDERS, TO REQUIRE THE STATE TAX COMMISSION TO PREPARE PROPOSED LEGISLATION TO IMPLEMENT THE PROVISIONS OF THE STREAMLINED SALES TAX AGREEMENT; PROVIDING AN EFFECTIVE DATE AND A CONTINGENT EFFECTIVE DATE.

S 1193 was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Davis, granted by unanimous consent, **H 264**, having been held, was referred to the Fourteenth Order of Business, General Calendar.

H 409, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Senator Compton requested unanimous consent that **H 409** be referred to the Fourteenth Order of Business for amendment.

Senator Cameron objected.

Moved by Senator Compton, seconded by Senator Goedde, that **H 409** be referred to the Fourteenth Order of Business for amendment.

The question being, "Shall the motion prevail?"

Roll call vote was requested by Senators Goedde, Malepeai, and Schroeder.

Roll call resulted as follows:

AYES--Brandt, Burkett, Compton, Darrington, Gannon, Goedde, Ingram, Kennedy, Malepeai, Schroeder, Stennett, Werk. Total - 12.

NAYS--Andreason, Bailey, Burtenshaw, Calabretta, Cameron, Davis, Geddes, Hill, Little, Lodge, McKenzie, McWilliams, Noh, Pearce, Richardson, Sorensen, Sweet, Williams. Total - 18.

Absent and excused--Bunderson, Keough, Marley, Noble, Stegner. Total - 5.

Total - 35.

Whereupon, the President declared that the motion did not prevail.

The question being, "Shall **H 409** pass?"

Roll call resulted as follows:

AYES--Bunderson, Burtenshaw, Calabretta, Cameron, Davis, Geddes, Hill, Little, Lodge, McKenzie, Pearce, Richardson, Sorensen, Sweet, Williams. Total - 15.

NAYS--Andreason, Bailey, Brandt, Burkett, Compton, Darrington, Gannon, Goedde, Ingram, Kennedy, Malepeai, McWilliams, Noh, Schroeder, Stegner, Stennett, Werk. Total - 17.

Absent and excused--Keough, Marley, Noble. Total - 3.

Total - 35.

Whereupon the President declared that **H 409** had failed to pass the Senate and ordered the bill returned to the House.

H 410, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Kennedy, Little, Lodge, Malepeai, McKenzie, McWilliams, Noh, Pearce, Richardson, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 27.

NAYS--Andreason, Calabretta, Ingram, Schroeder. Total - 4.

Absent and excused--Burkett, Keough, Marley, Noble. Total - 4.

Total - 35.

Whereupon the President declared **H 410** passed, title was approved, and the bill ordered returned to the House.

H 418, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Little, Lodge, Malepeai, McKenzie, McWilliams, Noh, Pearce, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 30.

NAYS--Richardson. Total - 1.

Absent and excused--Burkett, Keough, Marley, Noble. Total - 4.

Total - 35.

Whereupon the President declared **H 418** passed, title was approved, and the bill ordered returned to the House.

H 419, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Burtenshaw arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Bunderson, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Little, Lodge, Malepeai, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 30.

NAYS--None.

Absent and excused--Brandt, Burkett, Keough, Marley, Noble. Total - 5.

Total - 35.

Whereupon the President declared **H 419** passed, title was approved, and the bill ordered returned to the House.

H 403, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Little and Hill arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Little, Lodge, McKenzie, Pearce, Richardson, Sorensen, Sweet, Williams. Total - 21.

NAYS--Andreason, Calabretta, Kennedy, Keough, Malepeai, Marley, McWilliams, Noh, Schroeder, Stegner, Stennett, Werk. Total - 12.

Absent and excused--Burkett, Noble. Total - 2.

Paired and voting included in roll call:

AYE - Lodge	NAY - Keough
AYE - Bailey	NAY - Marley

Total - 35.

Whereupon the President declared **H 403**, as amended, passed, title was approved, and the bill ordered returned to the House.

H 383, as amended in the Senate, was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Cameron and Compton arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Little, Lodge, Malepeai, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 31.

NAYS--None.

Absent and excused--Burkett, Keough, Marley, Noble. Total - 4.

Total - 35.

Whereupon the President declared **H 383**, as amended in the Senate, passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

On request by Senator Davis, granted by unanimous consent, the bills on the General Calendar were arranged in the following order: **S 1172, H 136**, as amended in the Senate, **H 264, H 317**, and **H 415**, as amended in the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 4:55 p.m. until the hour of 10 a.m., Friday, April 25, 2003.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary